

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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DEMITRIOS STRATAKOS,

Plaintiff,

-against-

NASSAU COUNTY, et al.,

Defendants.
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LINDSAY, Magistrate Judge:

On May 29, 2019, the plaintiff, Demitrios Stratakos (“Stratakos”), submitted a letter to Judge Spatt seeking to compel the defendants to reimburse his expert, Dr. David Kutler, \$6000 for the flat rate he charged for his deposition demanded by the defendants. That application was redirected to the undersigned. By letter dated May 30, 2019, the defendants opposed the motion arguing that the fee was not reasonable given that the deposition lasted for 33 minutes. Given that the nature, quality and complexity of the discovery responses is one of the factors to be considered by the Court in determining the reasonableness of the fee, *see Mathis v. NYNEX*, 165 F.R.D. 23, 24 (E.D.N.Y. 1996), by order dated June 14, 2019, the Court directed the plaintiff to submit an affidavit from Dr. Kutler setting forth the time he spent preparing for the deposition, attending the deposition and time spent in transit, which he has done.

Dr. Kutler avers that he spent 3 hours reviewing the file, 30 minutes preparing for the deposition, 30 minutes at the deposition and 4 hours traveling to the deposition, for a total of 8 hours. Using a straight time calculation, Dr. Kutler is, therefore, seeking to be reimbursed at a rate of \$750 per hour. Courts have reached varying results in determining what constitutes reasonable. *Id.* (gathering cases including *Hose v. Chicago and North Western Transportation Co.*, 154 F.R.D. 222, 227 (S.D. Iowa 1994) (reducing expert neurologist's fee from \$800/hour, the doctor's usual hourly charge for neurological testing, to \$400/hour) and *Dominguez v. Syntex Labs, Inc.*, 149 F.R.D. 166, 170 (S.D. Ind. 1993) (reducing fee from \$800/hour to \$341.50/hour for neurologist specializing in smell and taste disorders, where doctor charged other clients \$800/hour for depositions but billed \$94/hour for patient office visits, and other neurologists with similar qualifications charged between \$120 and \$300/hour for depositions). Based on my knowledge of the prevailing rates for experts in the Eastern District, the undersigned finds that a rate of \$400 per hour is more reasonable for the time Dr. Kutler spent preparing for the deposition and attending the deposition and \$200 is reasonable for the time spent in transit. *See e.g. Broushet v. Target Corp.*, 274 F.R.D. 432, 434 (E.D.N.Y. 2011). Accordingly, the defendants are directed to reimburse Dr. Kutler \$2400 as a flat fee for the deposition.

Dated: Central Islip, New York
July 16, 2019

SO ORDERED:

_____/s_____
ARLENE R. LINDSAY
United States Magistrate Judge